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IN THE
SUPREME COURT OF THE UNITED STATES

October Term, 1969

No. 434

TILDEN W. JOHNSON,

Appellant,

vs.

STATE BAR OF CALIFORNIA, a public corp., HUGH W. DARLING, SAMUEL O. PRUITT, JR., A. STEWENS HALSTED, JR., and HARVARD CLUB OF SOUTHERN CALIFORNIA,

Appellees.

Petition for Rehearing and/or Clarification of 11-10-69 Order Holding No Jurisdiction over Appeals 1 and 2, but Postponing Decision of Jurisdiction over Appeal 3 Following That Was Timely Filed.

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1. Judgment-Opinion Cal. Court of Appeal, Jan. 20, 1969
2. Order After Judgment 3-12-69 Calif. Court of Appeal
3. Order After Judgment 5-8-69 California Supreme Court.

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In Propria Persona

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"Per Curiam: Appeal from Court of Appeal of California, Second Appellate District; The appeal is dismissed for want of jurisdiction. Treating the papers whereon the appeal was taken as a petition for a writ of certiorari, certiorari is denied."

REASONS FOR GRANTING REHEARING AND/OR CLARIFICATION RELATIVE TO THESE APPEALS

1. As the heading hereon shows and as the Jurisdictional Statement, pp. 3, 4, 16; 17, 21 and 28 show, unless late docketing is excused as an inadvertence of a law student from pro per reliance on docketing rules set forth in the recent authoritative Stern and Gressman "Supreme Court Practice", the appeals to the Calif. Court of Appeal were late depriving the Court of jurisdiction of the Bar Examination Appeal as the above U. S. Supreme Court Order of November 10, 1969 shows.

However, the appeal from the Calif. Supreme Court order of May 8, 1969 was timely filed. Thus it is submitted the Court has jurisdiction thereof; but the Nov. 10, 1969 order does not mention disposition of the Appeal from the Calif. Supreme Court. If the Nov. 10, 1969 order is interpreted as the court merely postponing a jurisdictional finding until briefs are filed, time in which to submit briefs may be running. Mr. Davis, the Clerk, is unable to answer my inquiry thereon and suggests I take the precaution to file this Rehearing and/or Clarification request per Rule 58 within 25 days of November 10, 1969.

2. Here as in Lindsay-Strathmore Irrigation Dist. v. Superior Court, 182 Cal. 315 the Motion to the Calif. Supreme Court under Calif. Rules of Court 25(d) was in part at least a direct action addressed to the Calif. Supreme Court. In the Lindsay case cited a judge tried an irrigation class action case filed on behalf of all owners of land in a basin yearly flooded by a mountain stream. The sub-water level was being lowered by Dist. Irrigation pumping. It developed the trial judge owned a lot of land in the basin. The Irrigation Dist. applied directly to the Calif. Supreme Court for a writ of prohibition to prevent the judge proceeding further after he had filed his findings. The Calif. Supreme Court issued the writ. In this case at bar the judge was one of a class sued and thus a defendant instead of plaintiff. However, the opinions filed by the courts herein and acquiesced in by the Calif. Supreme Court showed clearly a judgment or decision in misapprehension of the fact the hearing judge was a party. Rule 25(d) supra, if to be applied according to the Fourteenth Amendment, the Seventh Amendment and Article I, §10 of the U.S. Constitution (see Jur. Statement) required the Calif. Supreme Court to recall the Remittitur and hold the judgment void and award costs caused by defendant misconduct to plaintiff. Under such circumstances the Calif. Supreme Court it is submitted, could not avoid federal law on the subject by declining to hear a motion properly filed with that court and the Calif. Court ofAppeal which said Appeal Court passed to the Calif. Supreme Court. As a matter of fact were the "interested in the litigation test" applied to the Justices of the Calif. Court of Appeal, it was necessary for them to pass to the Calif. Supreme Court because all members of the appeal panel, Justices Fourt, Lillie, and Wood were

interested in the litigation per cases cited. (See Giometti v. Etienne, 219 Cal. 687). In the Giometti case an order was recalled because of a Justice's disqualification.

3. In Cadenasso v. Bank of Italy, 214 Cal. 562 after first action by the Calif. Supreme Court sustaining the judgment, it was discovered the trial judge owned stock in the Bank, and in a request for a Rehearing by the Calif. Supreme Court, it was shown the judgment was void per Calif. Code of Civ. Proc. §170, and the Calif. Supreme Court asked to void the judgment. There the Calif. Supreme Court denied the request to void, holding the proper mode to raise the voidness of the judgment was a new action in the Superior Court to void the judgment that had been appealed and affirmed. However, a motion to recall the remittitur is more in the class of the Lindsay case, supra than the Cadenasso case. On a motion or petition to recall remittitur and void for judgment showing misapprehension of facts the judgment cannot be considered as final. Under Rule 25(d) [Calif. Courts], the Court still has jurisdiction, and any prior affirmance did not count.

4. If the Cadenasso case were followed herein, it would be necessary for appellant to sue the Calif. State Bar, Harvard Club, and Messrs. Darling, Pruitt, and Halsted anew in the Los Angeles County Superior Court contending the judgment appealed was void. However, to prevent filing of a new suit, it is more in accord with justice that the U.S. Supreme Court just summarily reverse the Calif. Supreme Court May 8, 1969 Order denying the 14th, 7th Amendment of U.S. Constitution required that action as in Lindsay comparable cause and Giometti case. The

U. S. Supreme Court can hear and reverse, but in view of defendants' admitting by not replying the matter in the Jurisdictional Statement summary reversal is possible. Linehan v. Waterfront Comm., 347 U.S. 439; Barton v. Sentner, 353 U.S. 953; Tatum v. So. Pac. Co., 250 Cal. App. 2d 40. Page 164 of Stern & Gressman "Supreme Court Practice."

5. From Stern and Cressman's "Supreme Court Practice" section on appeals, pp. 161 through 169 it appears that unless the U.S. Supreme Court hears this obligatory appeal that it will be holding in effect this case involves no issues of overriding national importance. However, as the jurisdictional statement shows pp. 21 through 35 and especially questions of national importance pages 31 through 35, this case involves the very questions of most importance to the court itself as well as the nation as evidenced by the matters brought up in the Fortas and Haynesworth issues.

The practice of the U.S. Supreme Court declining to hear obligatory appeals and issue certiorari orders on the grounds inequitable judgments do not have enough national importance for consideration is what lead former Assoc. Justice Fortas to an untenable position and his resignation. The main item Congress had was not the Wolfson foundation case fees, but the fact that Justice Fortas followed court practice since the Feb. 13, 1925 Judicial Act (lobbied by big universities) had voted many times not to hear obligatory appeals and issue certiorari in appeals on the grounds of "not enough national importance," or he had failed to vote to hear the appeals filed. Later when he accepted $20,000. in fees from American University, it developed the money

given said university to pay him came from donors that were involved with insurance companies profiting from the unheard appeals, one of the donors being an overseer of Harvard and a trustee of stocks in 20 major insurance firms involved in much of the litigation passing before the U.S. Supreme Court. These facts gave Congress advantageous leverage, and Justice Fortas resigned in apparent disgust, over the matter.

Likewise, what Congress went by on Justice Haynsworth was not so much the stock he personally owned as it was the fact he was a graduate of Harvard, and thus as these appeal papers show was by virtue of Massachusetts law (as shown in the footnote of the opinion of the case at bar, 268 A.C.A. 474 -- see appendix of Jurisdictional Statement herein) was a holder in trust of the billion dollars of Harvard stocks and bonds which now includes or recently did include stock in 20 major insurance companies, and about 200 major corporations in U.S.A.

It is submitted clearly a conspiracy violative of the Federal Sherman and Clayton Act and similar State Acts started over 50 years ago. Big foundations acting in conjunction with major universities had the big universities engage in a de facto practice of law revolving around university endowments, and to engage in lobbying laws like the Judicial Act of Feb. 13, 1925, changing court rules, and public relations, and insurance cartels organizing bar associations as branch offices for the activity. See Los Angeles County and Calif. State Bar Journals beginning in 1926 and 1927 for details of conspiracy to limit the number of attorneys and give the big universities a law monopoly and political boss control of judicial

appointments by inequitable Bar Examination, etc. I. e. Laws were construed and were applied in violation of U. S. Constitutional right despite their apparent meaning in English, as read by the public. THEREFORE, IT IS SUBMITTED, IT IS TIME FOR THE U. S. SUPREME COURT TO EXERCISE ITS OBLIGATORY JURISDICTION AND HEAR AND REVERSE or begin to implement a corrective precedent whereby such obvious constitutional violations as presented by the undisputed Jurisdictional Statement are summarily reversed instead of dismissal of obligatory appeals by holdings of "not of enough national importance." It is submitted every Constitutional violation is of major national importance.

Here the U. S. Supreme Court can do itself, Congress, the public and the litigants a favor by writing an opinion that discusses the growing engagement in business of tax-exempt universities, religions, and associations, said associations often used as branch offices for some tax exempt university and foundations because tax exempt organizations cannot openly open branch offices or admit they are in business. It is better that such organizations be classed as in business. If the court considers their activities useful in some respects such as activities facilitating trade and keeping their members employed, after a business classification, they can operate openly instead of through deceptive association fronts.

In view of the Fortas and Haynsworth recent episodes even if the U. S. Supreme Court considers under California Law the appealed judgment is void and that appellant should just file a new suit in California

Superior Court without an official reversal, the U.S. Supreme Court upon passing on this request should state appellant has further Calif. State recourses such as filing a new suit in California, instead of leaving the general impression the U.S. Supreme Court is not concerned with U.S. Constitutional violations as herein shown. The Calif. Supreme Court would probably appreciate summary reversal as apparently at the present time the members of that court are under duress from the existing Bar Association, i.e. a Branch Office of major universities and from the university boss system in California. Thus appropriate action by the U.S. Supreme Court could lead to settlement of this matter and voluntary corrections in the inequitable bar examining procedure in California without the necessity to file a new suit in Los Angeles Superior Court per the ruling in the Cadenasso case, supra.

CONCLUSION

For the reasons set forth above and in the Jurisdictional Statement, it is respectfully urged that rehearing and/or Clarification be granted and that, upon such rehearing probable jurisdiction of the appeal from the California Supreme Court May 8, 1969 order be entered at least, even if the Bar Judgment is not considered, or that a more elaborate opinion issue stating in detail why an obligatory appeal is not heard pointing out other California actions possible, or summarily reverse.

Respectfully submitted,

TILDEN W. JOHNSON

In Per Se

CERTIFICATE

I hereby certify that the foregoing petition for rehearing is presented in good faith and not for delay and is restricted to grounds specified in Rule 58 of the Rules of this Court.

December 2, 1969

Tilden W. Johnson,
In Per Se